

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KRYGOSKI CONSTRUCTION COMPANY, INC.

Plaintiff,

Case No. 2:04-cv-076

v

Hon. David W. McKeague
Hon. Timothy P. Greeley

CITY OF MENOMINEE,

Defendant.

OPINION AND ORDER

Presently before the Court are three motions. Plaintiff Krygoski Construction Company has filed a Motion to Amend the Case Management Order (Docket #153), and a Motion to Amend the Complaint (Docket #140). Defendant City of Menominee has filed a Motion for Sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure (Docket #159). For the reasons stated on the record and herein, Plaintiff's Motion to Amend the Complaint will be denied. Plaintiff's Motion to Amend the Complaint seeks to add Lindner & Sorenson Co., Inc. as a new party defendant and add nine "John Does." In addition, Plaintiff makes new claims against the new defendants as well as Defendant City of Menominee under the Resource Conservation and Recovery Act (RCRA) and the Michigan Natural Resources and Environmental Protection Act (NREPA). These new claims and new defendants would significantly change the nature of this lawsuit. Furthermore, extensive discovery would have to occur with respect to these new claims and defendants. The discovery cutoff has passed in this matter and the Court concludes that the Motion to Amend the Complaint should be denied because it would unfairly prejudice

Defendant City of Menominee in the present action. Justice does not require amendment of the complaint at this time. These new claims and new defendants can be pursued in a separate action. Accordingly, Plaintiff's Motion to Amend filed pursuant to Fed. R. Civ. P. 15 will be denied. It is necessary for the Case Management Order to be amended because as a result of the pending Motion to Amend the Complaint, dispositive motions were not timely filed in this matter.

IT IS HEREBY ORDERED, that dispositive motions shall be filed in this matter on or before **November 1, 2005**. A Final Pretrial Conference will be held in this matter on **May 24, 2006 at 1:30 p.m.** before the Honorable R. Allen Edgar, United States District Judge, and the matter shall be placed on for Trial **June 19, 2006**.

Defendant's Motion for Sanctions is denied for the reasons stated on the record.

Accordingly, Plaintiff's Motion to Amend the Case Management Order (Docket #153) is GRANTED; Plaintiff's Motion to Amend the Complaint (Docket #140) is DENIED; and Defendant's Motion for Sanctions pursuant to Rule 11 of the Federal Rules of Criminal Procedure (Docket #159) is DENIED.

IT IS SO ORDERED.

September 22, 2005

/s/ Timothy P. Greeley

Timothy P. Greeley
United States Magistrate Judge